

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

IN THE MATTER OF THE SEARCH OF  
THE PREMISES OF 38 FLINT STREET,  
MANCHESTER, NEW HAMPSHIRE

Case No. 18-mj-54-01-AJ

**AFFIDAVIT OF TASK FORCE OFFICER MATTHEW D. BARTER IN SUPPORT  
OF AN APPLICATION FOR A SEARCH WARRANT**

I, Matthew D. Barter, a Task Force Officer with the United States Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”), being duly sworn, hereby depose and state as follows:

**INTRODUCTION AND AGENT BACKGROUND**

1. I am a Task Force Officer with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), and have been assigned as such since November, 2015. I am employed as a Detective with the Manchester, New Hampshire Police Department and have been so employed since July 2008. During that time, I successfully completed the Manchester Police In-House Academy as well as the New Hampshire Police Standards and Training Council Academy located in Concord, New Hampshire.

2. During my employment I have received specialized investigatory training in numerous areas to include warrants and complaints, fraud investigations, use of telephone records in criminal investigations, drug investigations, basic and advanced interview and interrogation, identity fraud, sex crimes investigations, crime scene investigation, finger print recovery and comparison, criminal intelligence sharing and computer/data analytics and specialized ATF Training regarding firearms trafficking. I have responded to, investigated, or participated in the investigation of many crimes to include homicides, aggravated assaults

(including those in which firearms were used), robberies, burglaries, thefts, drug related crimes, and long term undercover drug investigations. I have a Bachelor of Arts Degree in Criminal Justice from Saint Anselm College in Manchester, New Hampshire, and a Master's Degree in Criminal Justice from Boston University in Boston, Massachusetts.

3. In my current assignment as a Task Force Officer with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) I have participated in numerous investigations involving firearms trafficking and the criminal possession and use of firearms. During those investigations, I have participated in surveillance, the purchase of firearms, the execution of search warrants, interviewing witnesses, suspects and informants.

4. As a Task Force Officer, I am a "Federal law enforcement officer" within the meaning of Federal Rule of Criminal Procedure 41(a)(2)(C), that is, a government agent engaged in enforcing the criminal laws and duly authorized by the Attorney General to request a search warrant.

5. I am currently investigating an individual named Joshua Hooper (hereinafter "HOOPER") for violations of Title 18, United States Code, § 922(g)(1), Prohibited Person in Possession of a Firearm.

6. I submit this affidavit in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for a warrant to search the premises located at 38 Flint St, Manchester, New Hampshire (hereafter the "PREMISES"), which is further described in Attachment A, incorporated herein by reference, which is located in the District of New Hampshire. Located within the PREMISES I seek to seize evidence, fruits, instrumentalities and contraband related to violations of Title 18, United States Code, § 922(g)(1), which relates to a prohibited person being in possession of firearms. I request authority to search the PREMISES,

including the residential dwelling and included bedrooms, closets, crawl spaces and any place where the items specified in Attachment B (also incorporated herein by reference) may be found as well as the curtilage of the property, to include any out buildings; and to seize from the PREMISES any and all items listed in Attachment B as contraband, instrumentalities, fruits, and evidence of a violation of 18 USC § 922(g)(1).

7. I make this affidavit based on my personal participation in the investigation, my review of ATF records, reports prepared and maintained by local and state agencies, and the information provided to me by other law enforcement officials. This affidavit is intended to show only that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

#### **STATUTORY AUTHORITY**

8. Title 18, United States Code, § 922(g)(1) makes it unlawful for any person to knowingly possess, ship, transport or receive a firearm or ammunition, if at the time he or she possessed, shipped, transported or received the firearm or ammunition to have been previously convicted of a crime punishable by imprisonment for a term exceeding one year. The possession of the firearm or ammunition must have affected commerce, must have been shipped or transported in interstate or foreign commerce or must have been received, shipped, or transported in interstate or foreign commerce.

#### **PROBABLE CAUSE**

9. On February 27, 2018 at 6:51 AM, the Manchester Police Department received an anonymous tip that a convicted felon may have purchased a firearm through a private sale. The tip stated, “Josh Hooper might be a felon in possession of a gun. Saw a discussion on facebook week or 2 ago.” Under the “Suspect” portion of the on-line tip form, the tipster left the following

information: “Name: Josh Hooper; Sex: Male; Age: 35; Hair: Shaved; Address: Flint St, Manchester; Weapon: Possible handgun.”

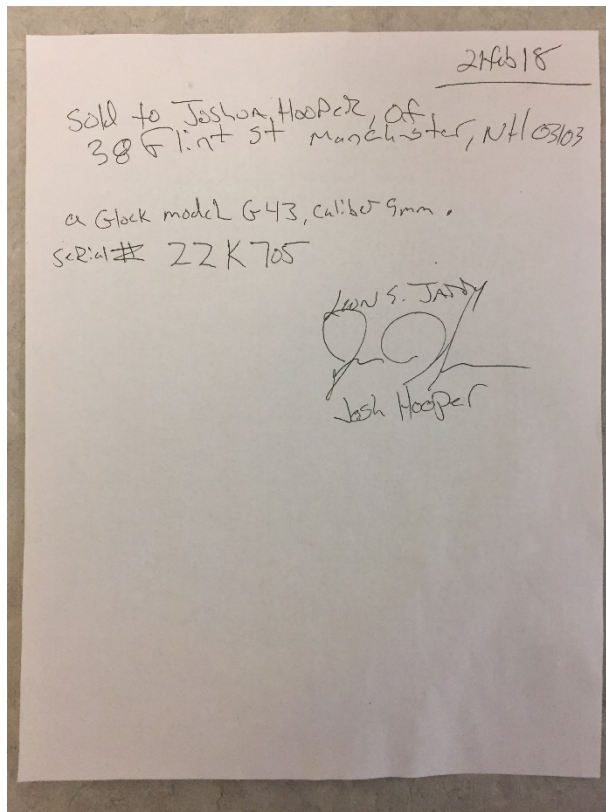
10. On February 27, 2018, at 4:09 PM, the tipster left an additional message that read “It was a recent private sale of a handgun.” On March 2, 2018, Manchester Police Detective Lavallee asked the tipster via the anonymous tip line if he/she knew who sold HOOPER the gun and on March 6, 2018 at 1403 hours, the tipster replied “Leon Jarry.”

11. Detective Lavallee checked State of New Hampshire motor vehicle registration listings and located only one Leon Jarry at an address in Hudson, NH. The Hudson Police Department were able to provide Detective Lavalee with Jarry’s phone number.

12. On March 16, 2018, Detective Lavallee made telephone contact with Jarry. During the call, Jarry stated that he was familiar with HOOPER and described HOOPER as a friend. Detective Lavallee asked Jarry if he recently sold a firearm to HOOPER, and Jarry stated that he had sold a Glock, model 43 pistol to HOOPER approximately three weeks prior. Jarry told Detective Lavallee that HOOPER purchased the firearm for \$400.00 and they had completed a bill of sale for the purchase, which included the firearms’s serial number. Detective Lavallee asked Jarry if he knew that HOOPER was a convicted felon, and Jarry advised he did not. Jarry stated that he specifically asked HOOPER if he was prohibited from possessing a firearm and HOOPER told him there was no reason why he could not have a gun. Detective Lavallee scheduled an in-person interview of Jarry for March 19, 2018.

13. On March 19, 2018, Detective Lavallee met with Jarry at the Manchester Police Department. During the interview, Jarry stated that at approximately 4 PM on February 21, 2018, he sold HOOPER a Glock, model 43 pistol for \$400 (the “Glock”). Jarry stated that he sold the firearm to HOOPER at 525 Calef Road, Apartment 4, Manchester, NH. During his

interview, Jarry provided Detective Lavallee with the original bill of sale for the firearm, which was taken as evidence. The bill of sale, as shown below, states “21Feb18 Sold to Joshua Hooper, of 38 Flint St Manchester, NH 03101 a Glock model G43, caliber 9mm. Serial # ZZK705.” The bill of sale, pictured below, appears to include Jarry’s printed name, HOOPER’s printed name, and a signature for HOOPER.



14. Jarry stated that he knows HOOPER to possess other firearms. Jarry explained that on July 4, 2017, he and HOOPER went target shooting together. At that time, Jarry observed HOOPER in possession of a Noveski make, AR-15 rifle and a Mossberg, 500 shotgun. Mr. Jarry stated that he knew HOOPER recently sold the Noveski AR-15 in a private sale.

15. Furthermore, HOOPER had originally requested to trade an AR-15 Lower Receiver to Jarry in exchange for the Glock 43. Jarry declined, because he wanted cash for payment instead of a trade, so he did not accept the lower receiver from HOOPER. HOOPER

had identified the lower receiver as an Anderson model, with an attached butt stock, making it a fully assembled lower receiver. A lower receiver for an AR-15 is defined as a firearm based on Title 18 USC §921(a)(3). Because Jerry did not accept the trade, he believed HOOPER is still in possession of the AR-15 lower receiver.

16. Jerry stated that he knew HOOPER to still be in possession of the Glock because during the snowstorm on March 13, 2018, HOOPER was at 525 Calef Road, Apt 4, and had the Glock in his backpack. Jerry reported that in conversation, HOOPER referred to the Glock as “his baby.”

17. Jerry stated that he knows HOOPER resides at 38 Flint Street, Manchester, New Hampshire. Jerry stated that he has known HOOPER to live at this address throughout the time they have been friends. HOOPER has told Jerry he lives at this address and Jerry has seen HOOPER at this address. In addition, Jerry knows from prior conversations that HOOPER may keep the shotgun and lower receiver in the garage at this address, which is located on the property of the home. Jerry did not believe that HOOPER would bring the shotgun and AR-15 lower receiver into the home, but did know HOOPER to keep the Glock G43 either on his person or in his backpack which he carried with him.

18. Jerry was shown a photograph of HOOPER, which he positively identified as the individual he sold the Glock to.

19. On March 19, 2018, the Manchester Police Department received another anonymous tip regarding HOOPER. The tip noted that “Joshua Hooper is a felon in possession of guns. They are kept at Flint st.” The tipster described HOOPER as 35-year-old Caucasian Male, with a shaved/bald head, a web tattoo on his elbow and tattoos on his legs, and a Flint St address. The tip also provided information that HOOPER drove a Jeep Wrangler.

20. I have reviewed HOOPER's criminal history and learned that HOOPER has been convicted of the following crimes, each punishable by a term of imprisonment exceeding one year:

- a. Class B Felony Burglary, convicted on March 2, 2012, out of the Grafton, New Hampshire Superior Court, and sentenced to 12 months in the house of corrections with 6 months suspended and three years of probation. Under New Hampshire law, a Class B Felony is defined as imprisonment in excess of one year but not in excess of seven years.
- b. Class B Felony Forgery, convicted on November 11, 2015, out of the Hillsborough County Superior Court North, Docket 07-S-583, and sentenced to New Hampshire State Prison for 1 to 3 years.
- c. Class B Felony Burglary, convicted on September 26, 2011, out of the Hillsborough County Superior Court North, Docket 10-2606-420048C, and sentenced to 12 months in the house of corrections with all but 90 days suspended and 2 years of probation.

21. On March 19, 2018, I conferred with ATF Special Agent John Forte, who in his capacity as an expert in the interstate nexus of firearms, gave an opinion concerning the aforementioned Glock model G43, 9mm pistol, serial number ZZK705. Special Agent Forte determined, based on his review of the information on the bill of sale, that Glock model G43 firearms are manufactured outside the state of New Hampshire and therefore, by its presence in the state of New Hampshire, previously traveled in interstate and/or foreign commerce.<sup>1</sup>

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<sup>1</sup> Special Agent Forte has not conducted a physical examination of the actual firearm because it has not yet been recovered by law enforcement.

22. I have conducted a follow-up investigation to confirm the current residence of Joshua HOOPER as 38 Flint St, Manchester, NH. A review of HOOPER's New Hampshire Driver's License shows that HOOPER was issued a Driver's License on October 18, 2017, with a listed address of 38 Flint St, Manchester, NH. I reviewed in-house Manchester Police Department Records and determined that HOOPER's address was documented as 38 Flint St, Manchester, NH on September 26, 2017. HOOPER has 14 prior contacts with the Manchester Police at 38 Flint St, Manchester, NH since November 2009.

23. Furthermore, during surveillance on March 19, 2018, and March 20, 2018, I observed a Jeep Wrangler, with [REDACTED] license plate [REDACTED] which is registered to HOOPER, parked in front of 38 Flint St. On March 20, 2017, at approximately 1 PM, ATF Special Agent John Cook and I observed HOOPER emerge from 38 Flint St and stand at the end of the driveway, smoking a cigarette.

24. Based on my training and experience I know that prohibited persons who possess firearms often possess these firearms for long periods of time because they cannot legally acquire other firearms. I know that prohibited persons who possess firearms often keep these firearms in their residences to avoid detection by law enforcement. Furthermore, firearms are generally kept inside homes to permit easy access to the firearm, to be secured from theft, and to be safeguarded from rust and corrosion. Other reasons firearms are kept for long periods is due to the fact that firearms are somewhat expensive and firearms do not easily wear out. Firearms are like expensive tools that many owners keep and maintain over several years.

25. I also know that persons who possess firearms often possess other items pertaining to the possession of firearms, including, not limited to: gun cases, original gun packaging boxes, ammunition, ammunition magazines, holsters, targets, parts and accessories for



firearms, firearm cleaning equipment, photographs and videos of firearms or of persons in possession of firearms, and documents relating to the acquisition, purchase, sale and/or repair of these items to included but not limited to: receipts and documents reflecting the dates of transactions, items acquired, and the names, mailing addresses, email addresses, and/or telephone numbers of individuals associated with these activities.

26. Based on my training and experience, I know that it is common for individuals to have documents that establish control, possession, custody, or dominion over the residence, including, but not limited to addressed envelopes, checkbooks, personal identification, notes, correspondence, utility bills, rent receipts, payment receipts, financial documents, keys, leases, mortgage bills, vehicle registration, information or ownership warranties, receipts for vehicle parts and repairs, and photographs showing persons occupying the residence.

### **CONCLUSION**

27. Based on my training and experience and the information contained herein, I have probable cause to believe that HOOPER is in violation of Title 18, United States Code, § 922(g)(1), possession of a firearm by a convicted felon.

28. Moreover, the facts set forth in this Affidavit demonstrate probable cause to believe that evidence of HOOPER's illegal firearm possession is located at the residence of 38 Flint St, Manchester, New Hampshire, and on his person as described in Attachment A.

29. I therefore respectfully request authorization, pursuant to Federal Rule of Criminal Procedure 41, to search the Target Location and the person of HOOPER, as more fully described in Attachment A, and to seize any firearms, ammunition and other items, as more specifically identified in Attachment B.

30. HOOPER's record includes multiple arrests and convictions for resisting arrest, simple assaults and criminal threats. As a result, I have a reasonable suspicion that knocking and announcing law enforcement's presence under these circumstances could be dangerous or futile, and there is good cause to permit the execution of this warrant at any time in the day or night. I therefore respectfully request authority to execute the search warrant at any time in the day or night, without first obeying the notice requirement contained in 18 U.S.C. § 3109.

/s/ Matthew Barter  
MATTHEW BARTER  
ATF Task Force Officer

Sworn and subscribed before me on March 21, 2018, in Concord, New Hampshire.

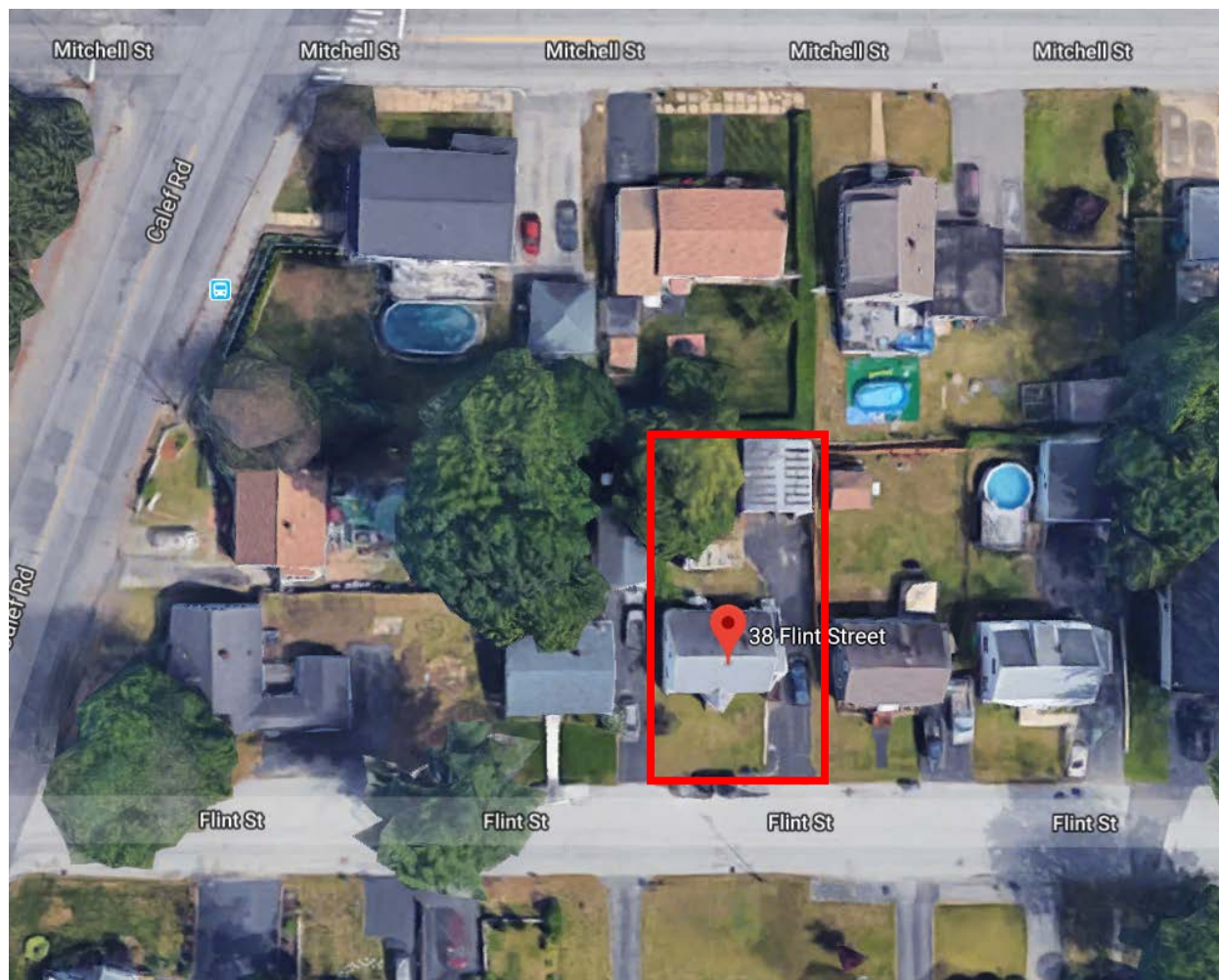
/s/ Andrea K. Johnstone  
HONORABLE ANDREA K. JOHNSTONE  
UNITED STATES MAGISTRATE JUDGE  
DISTRICT OF NEW HAMPSHIRE

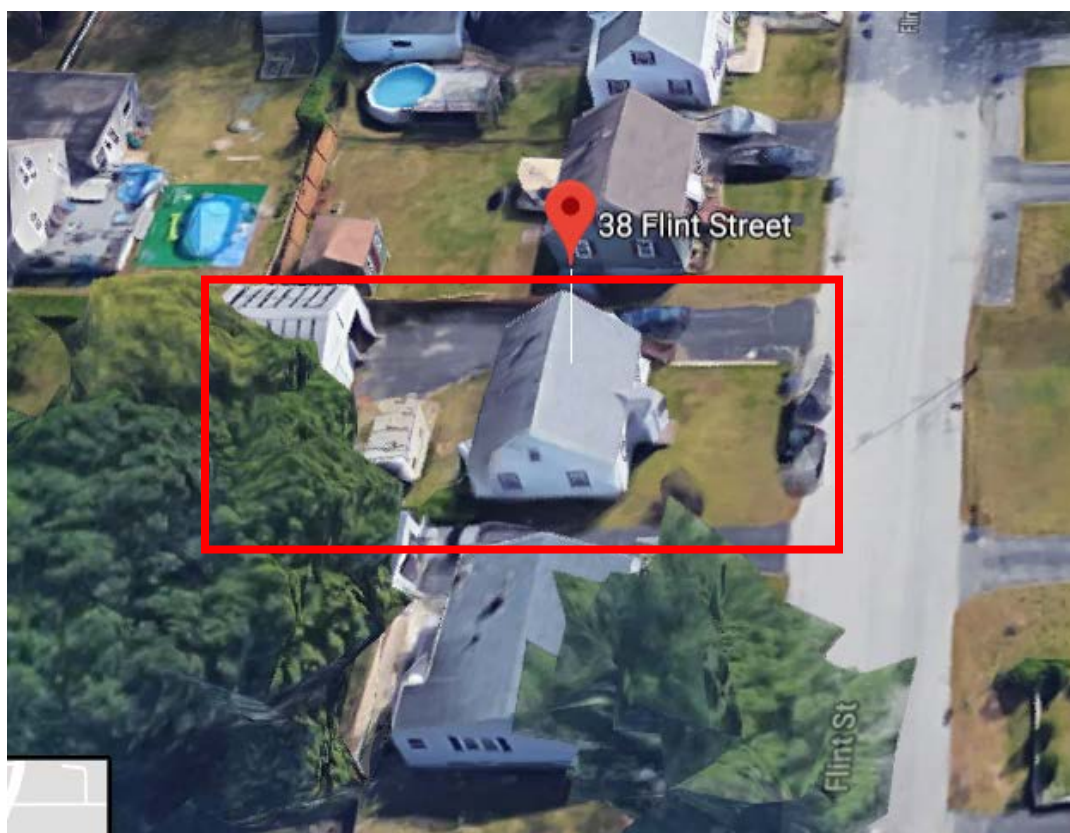
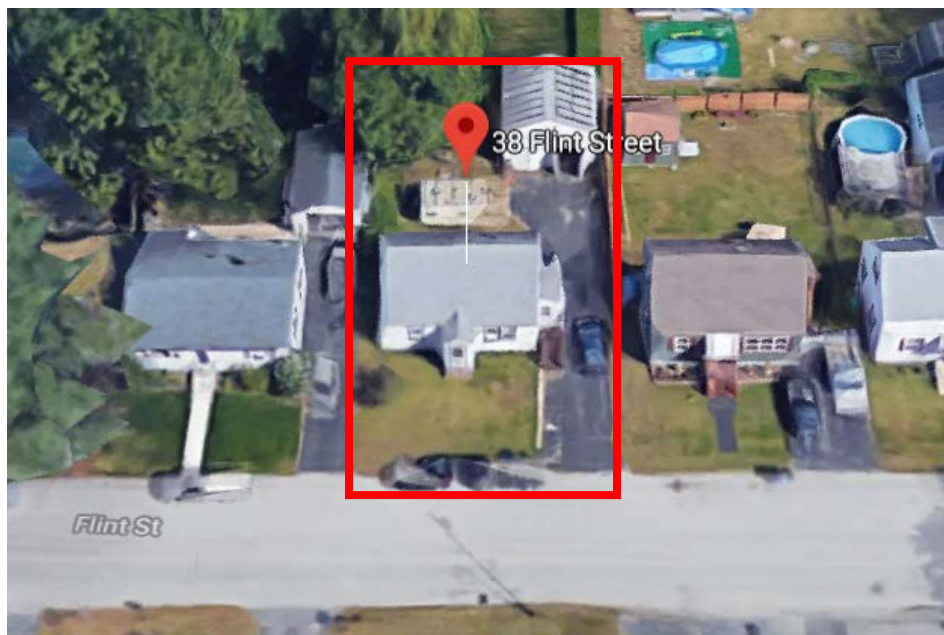
**Attachment A**  
**Description of Property to be Searched**

The person of Joshua HOOPER, DOB [REDACTED]

The RESIDENCE located at 38 Flint St, Manchester, New Hampshire, is a single family Cape Cod style house that is white with blue trim around the windows and a blue door. The number “38” is posted on the right side of a door located on the Southeast corner of the home. 38 Flint St is comprised of a residence as well as a detached garage in the rear of the residence. The curtilage of the home extends to a fence line to the North that marks the property line of the home to the North.

The following photographs depict the premises:









**Attachment B**

**Description of Items to Be Seized**

1. Any firearms or other dangerous weapons.
2. Any items pertaining to the possession of firearms, including, but not limited to, gun cases, original gun packaging boxes, ammunition, ammunition magazines, holsters, targets, parts and accessories for firearms, firearm cleaning equipment, photographs and videos of firearms or of HOOPER in possession of firearms;
3. Documents relating to the acquisition, purchase, sale, and/or repair of the aforementioned items, including, but not limited to: receipts and documents reflecting the dates of these transactions, the items acquired, and the names, mailing addresses, email addresses, and/or telephone numbers of individuals associated with these activities;
4. Documents that establish control, possession, custody, or dominion over the residence, structure, or vehicle including but not limited to addressed envelopes, checkbooks, personal identification, notes, correspondence, utility bills, rent receipts, payment receipts, financial documents, keys, leases, mortgage bills, vehicle registration, information or ownership warranties, receipts for vehicle parts and repairs, and photographs showing persons occupying the residence or vehicle.